

General Information Letter: Amounts included in adjusted gross income under IRC Sections 402(a), 402(c), 403(a), 403(b), 406(a), 407(a) or 408 may be subtracted in computing base income.

June 8, 1999

Dear:

This is in response to your letter dated May 15, 1999 in which you state the following:

I need to know whether the 403B (annuity) and IRA's are exempt from state tax. Thank you.

According to the Department of Revenue ("Department") regulations, the Department may issue only two types of letter rulings: Private Letter Rulings ("PLR") and General Information Letters ("GIL"). For your convenience, we enclose a copy of 2 Ill. Adm. Code §1200 explaining these two types of rulings issued by the Department.

Due to the nature of your inquiry and the information presented in your letter, we are required to respond with a GIL. GILs are designed to provide background information on specific topics. GILs, however, are not binding on the Department.

Under Illinois law, an individual's base income for Illinois income tax liability is the taxpayer's federal adjusted gross income as modified by certain addition and subtraction modifications set forth in Section 203 of the Illinois Income Tax Act ("IITA"). Enclosed please find a copy of Section 203 of the IITA.

Thus, with respect to your specific inquiry regarding the 403B and IRA, if these are not a part of your federal adjusted gross income, they are automatically not taxed by Illinois as a result of the above explanation. However, if the amount is included in your federal adjusted gross income, 403B items and IRAs could be subtracted from the base income by virtue of Section 203(a)(2)(F) of the IITA which provides for a subtraction modification for:

An amount equal to all amounts included in such total pursuant to the provisions of Sections 402(a), 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the Internal Revenue Code, or included in such total as distributions under the provisions of any retirement or disability plan for employees of any governmental agency or unit, or retirement payments to retired partners, which payments are excluded in computing net earnings from self employment by Section 1402 of the Internal Revenue Code and regulations adopted pursuant thereto.

As stated above, this is a general information letter which does not constitute a statement of policy that either applies, interprets or prescribes tax law. It is not binding on the Department. If you are not under audit and you wish to obtain

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a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Sincerely,

Heidi Scott

Staff Attorney -- Income Tax